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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,335	12/19/2001	Teodore Sirkin		1587

7590 10/17/2003
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EXAMINER

HWU, DAVIS D

ART UNIT PAPER NUMBER

3752

DATE MAILED: 10/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,335

Applicant(s)

SIRKIN, TEODORE

Examiner

Davis Hwu

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-10, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Visk in view of Walto.

The patent to Visk discloses a sprinkler head assembly having an off/on water flow control for turning water off and on at the sprinkler head assembly without interrupting water flow to any adjacent sprinkler heads, the sprinkler head assembly comprising:

- a generally upright tube which carries water from a conduit (see Figure 1);
- a sprinkler head body at the upper end of the generally upright tube and the sprinkler head and generally upright tube having a duct extending therethrough (see Figure 1);
- an insert 29 located at the sprinkler head body for allowing a directionalized spray of water from the conduit through the sprinkler head; and
- off/on water flow control valve means comprising a stem 16 extending into one of the ducts for stopping water flow when the stem is in a first position and reinitiating a flow of water through the sprinkler head assembly when the stem is rotated to a second position about an axis of the stem independently

of a main control as recited in claim 1 (see Column 4, lines 64-66 and Column 5, lines 49-50).

Visk does not disclose a subterranean water conduit. The patent to Walto teaches a sprinkler comprising an upright tube which carries water from a subterranean water conduit 35 to a sprinkler head assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have connected the device of Visk to a subterranean water conduit as taught by Walto in order to protect the water supply conduit from lawn maintenance equipment and weather conditions. The limitations of claim 8 would have been obvious matters of design choice since such modifications would have involved a mere change in the size of a component which is generally recognized as being within the level of ordinary skill in the art. The method of claims 14-17 can be carried out by the device of Visk and Walto.

3. Claims 1, 3, 6-8, 9-13, and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walto in view of Johnson.

The patent to Walto discloses a sprinkler head assembly comprising:

- a generally upright tube which carries water from a subterranean conduit (see Figure 2);
- a sprinkler head body at the upper end of the generally upright tube and the sprinkler head and generally upright tube having a duct extending therethrough (see Figure 2);
- an insert 28 located at the sprinkler head body for allowing a directionalized spray of water from the conduit through the sprinkler head;

- a pop-up riser shaft 32.

Walto does not disclose an off/on water flow control valve means as recited. The patent to Johnson teaches a sprinkler shut-off valve comprising a stem 23 which extends into a duct connecting an inlet to an outlet of a flow path in which the stem stops the flow water to the sprinkler when the stem is in a first position and reinitiating the flow of water through the sprinkler when the stem is rotated to a second position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Walto by incorporating an off/on water flow control means as taught by Johnson in order to shut-off flow to individual sprinklers independently. The limitations of the wall thickness and reduced diameter of claims 8 and 12 would have been obvious matters of design choice since such modifications would have involved a mere change in the size of a component which is generally recognized as being within the level of ordinary skill in the art. The method of claims 14-20 can be carried out by the device of Walto and Johnson.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Chang and Sirkin (US Patent Number 6,568,608) are pertinent to Applicant's invention.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.



Davis Hwu